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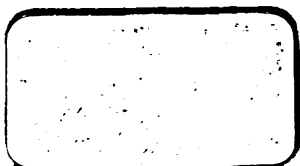
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ADMINISTRATION
OF THE
SEWERAGE AND DRAINAGE
OF THE
METROPOLITAN DISTRICTS.

STATEMENT
OF
OBJECTIONS TO THE EXISTING SYSTEM
AND OF
ESSENTIALS FOR A SOUND ONE.

PREPARED AT THE REQUEST
OF THE
RIGHT HON. SIR GEORGE GREY, BART., M.P.,
HER MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR THE HOME DEPARTMENT.

LONDON:
PRINTED BY RICHARD AND JOHN E. TAYLOR,
RED LION COURT, FLEET STREET.

1851.

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TO THE

RT. HON. SIR GEORGE GREY, BART., M.P.,

HER MAJESTY'S PRINCIPAL SECRETARY OF STATE
FOR THE HOME DEPARTMENT.

SIR,

YOUR letter of the 24th instant having been laid before the Deputations assembled at Marylebone Court-House on Friday the 25th inst.,—in which letter it is requested that you “may be informed of the object of the proposed interview,”—a Committee was then appointed to draw up a Statement of that object. The following Statement is now, accordingly, presented to your consideration by that Committee.

The object of the proposed interview is, to bring under your particular attention the Constitution of the present Metropolitan Commission of Sewers, and to point out the necessity for the replacing of a body so constituted by arrangements more in accordance as well with practical efficiency as with the principles of the Common Law of England.

This question is not only a financial one, nor only one connected with the public health. It is immediately connected with the Political and Social Relations, Duties, and Responsibilities of men living in a free community. In it are embraced the whole of the considerations whether men shall have the management of their own affairs in their own hands, to be administered by those appointed by themselves and responsible to them; or whether they shall submit to have their affairs managed for them by individuals arbitrarily set

over them, and who are irresponsible to them alike for works done and for moneys levied. A subject involving considerations of wider and greater importance cannot be named.

The Metropolitan Sewers Act, 1848, was clearly framed without a consideration either of the actual objects and purposes of Sewers themselves, as mechanical contrivances, or of the Principles of Common Law, by which the control of those works, and of works of like nature, can alone be well regulated. The Rolls of Parliament and the Statute Book give the fullest information as to the actual nature of Sewers themselves, the objects sought to be accomplished by them, and the mode in which those objects have heretofore been accomplished.

Nothing can be more clear than that the true objects and purposes of works of Sewerage are quite different,—in many respects precisely the reverse,—from those of works of Drainage. The former relate exclusively to works for maintaining tidal streams unbefouled and within due bounds; the latter as exclusively to works for carrying off, clearly and cleanly, any superfluities arising on the land. The two objects can never be mixed up without the greatest injury and mischief, and a practical defeating of the ends of both. But in the Metropolitan Sewers Act, 1848, these two classes of works are confounded together as if parts of one system.

So early as the 35th Edw. I. (A.D. 1306) there is found a writ directed to the Mayor of London, on the petition of the Earl of Lincoln, requiring the said Mayor to take means, by the lawful instruments of Local Self-Government, for the scouring and clearing of the River Fleet from befolements that then obstructed its channel, so that ships might go well up it, as of old, as far as Holborn Bridge. In 25 Edw. III. st. 3, c. 4 (A.D. 1351) and 45 Edw. III. c. 2 (1371), provision is made, in the spirit of Magna Charta itself, for keeping the rivers and streams clear from obstruction; and the Sheriff is commanded to use, as need should arise, the wholesome Common Law means of getting at the facts.

In 1 Hen. IV. c. 12 (A.D. 1399), the condition of the Land, as itself affected by the flooding of tidal streams, is, for the first time, spoken of in connection with the subject.

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While the streams and rivers still form principal matters, mention is here also found of "Meadows, and Pastures, and Lands Sowed, adjoining to the said Rivers," as being "greatly disturbed, drowned, wasted, and destroyed" by the same causes as befouled the rivers themselves. And this Statute contains the first allusion to Commissions expressly made to Justices, with special reference to dealing with these objects; but who are only empowered to do so by the Common Law methods, - i. e. to *"inquire" by jury of neighbours*.

In the Rolls of Parliament of 2 Hen. VI. (A.D. 1423) allusion is again found to Commissions made for the same purposes; and which were to discharge the duties assigned them by the same means, namely, through inquiries made by the law-worthy men of the neighbourhood.

The Statute of 6 Hen. VI. c. 5. is the first statute which fixes itself particularly upon the damage done to the adjoining lands by the overflow of tidal streams. And that Statute for the first time gives power to make, within the next ten years, Commissions to Justices which shall endure beyond special need. But, as in every other case, nothing can be done by such Justices except on and after inquiry by the men of the neighbourhood, "by whom," as it is justly and wisely said in the Statute, "the truth of the matter in the premises may best be known and inquired."

Passing over several renewals, for different terms, of the last-named Act, the Statute 23 Hen. VIII. c. 5 (A.D. 1531) must be mentioned as the Act which was in force until 1848, though much and mischievously interfered with by several private Acts. Unlike the Statute of Hen. VI., this Statute gave power to make Commissions not only within the next ten years, but to make them from time to time, as need should be; each Commission not to endure for more than three years, and all to be revocable at any time by *supersedas*.

Under this Act a most important decision took place, which puts in the strongest light how entire a violation is the Metropolitan Sewers Act, 1848, of the Principles of the Common Law.

The Commissioners of Sewers had decreed a new work to be done, and made a tax to raise the necessary funds. The

*Same means
only: -
to affect their
equitable
rights, as found
by inquiry.*

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case came before the Common Pleas, 7 Jac. I. (A.D. 1609); and the questions were raised, both of the power to decree such work to be done, and the power to make the taxes. It was expressly held that, at the Common Law, no new work could be done by any decree of the Commissioners; and this, for the best of all reasons, namely,—that the Common Law had, there as elsewhere, itself provided an equitable means of its being learned,—not by the arbitrary discretion of any one or few, but on the sound principles, and by the established institutions, of Local Self-Government,—what damage was, or might be, done, and therefore what works were needed. Such being the clear rule of Common Law, “it was resolved by the said Justices that, by force of the said commission founded upon the Act of 23 Hen. VIII., the Commissioners could not make” any such decree; for “*it would be hard to enlarge it beyond the words, and to give power to Commissioners to try new inventions at the charge of the country, which perhaps will never take good effect.*” The Judgement then proceeds in the following remarkable words, which contain the gist of the whole question at the present time:—“When new inventions are proposed, as is aforesaid, if they are apparently profitable, no owner of the land there will deny to make contribution for his advantage; *and then it ought to be made by their Voluntary Consent and charge, and not by Constraint, by force of the said Commission of Sewers*; but sometimes when the public good is pretended, a private benefit is intended.” As to the question of taxation, it is further and most equitably adjudged, “that none could be taxed towards the reparation, &c. but those who had prejudice, danger, or disadvantage by the said nuisances or defaults, and who might have benefit and profit by the reformation or removing of them*:” all which facts are to be ascertained, not by the arbitrary discretion of any Commissioners, but by the rules of the Common Law and the practice of Local Self-Government.

The Deputations now seeking, on behalf of the Metropolitan Parishes, to procure a Reform in the Administration of the Sewerage and Drainage of the Metropolitan Districts, seek no more than that these sound principles of the Common Law

* 10 Coke's Reports, 141.

—which are the same whether applied to the question of Drainage or of Sewerage—shall be again made the standard. And, unless it is to be maintained that there is less intelligence and capacity at this day than prevailed 550, 500, 400, 300, and 250 years ago, it is clear that the claim of the Deputations to have the Rules of the Common Law thus made the only standard cannot be avoided.

Into the mischievous effects produced by the several private acts, obtained at different times, but all unconstitutionally, by different of the Commissions of Sewers, it is unnecessary now to enter. It was reserved for the Metropolitan Sewers Act, 1848, entirely to discard every Common Law principle; and, in place of those long-tried principles, to introduce, pure and unmixed, an irresponsible and arbitrary system, both of law-making and of taxation. For the first time it is declared that the property, convenience, and interests of any and every man, within any part of the Metropolitan Districts, may be interfered with, and arbitrarily dealt with, to any extent, and without any redress, upon the mere caprice and “Information” of an irresponsibly appointed Surveyor; a practice as repugnant to every common sense of right, equity, and justice, as it is to every principle of English Law, and every guarantee of the rights of Property.

The Commission of Sewers appointed under the Act of 1848, and now in operation, has proved so notoriously inefficient that there can be little need to point out the grounds of objection to it as taken from a view of the practical results of its working. It will be enough to say that, instead of the Thames having been kept from pollution, further works for the express pollution of it, in themselves most costly and ill-devised, have been done and are doing, while no steps towards any system of Drainage, properly so called and as distinguished from Sewerage, have been begun or contemplated; that the complaints of individuals, affecting health, comfort, and cleanliness, meet with no attention nor redress; while the cost of this abortive system is enormous, and the expenses of management form so large a proportion of the whole moneys expended, as to show the most reckless disregard for the public interests.

Evils such as these must, at all times, necessarily flow from a system which assumes to take the management and control of their own affairs out of the hands of those whose own interests and well-being are concerned, and who alone can, by any possibility, know the conditions and circumstances without a knowledge of which the subject matter can never be properly dealt with, and to put that management and control into the hands of a few crown-appointed and irresponsible persons, who can know nothing of the conditions and circumstances, and who have no immediate interest in the result. The Metropolitan Sewers Act, 1848, has worked ill and unsatisfactorily because it has no basis in Principle, but is antagonistic to the first elements of Justice, and to the long-tried rules of the Common Law. It is simply the restoration into practical activity of those Principles, those Elements, and those Rules, that the Deputations claim.

Changed conditions may need a different practical development of the same principles in one age from what serve well in another. In the crowded Metropolitan Districts, as now existing, the same practical system would be inefficient which was efficient enough two and three centuries ago, or even much later. Something more permanent and daily active than a jury summoned, as need was, from the law-worth men of the neighbourhood, must be had recourse to. But the practical means to be put in action for this purpose, having regard to the same great Principles, are very simple; there is no substantial difficulty in the way either of devising them or of working them out.

These points the Deputations have well discussed and considered. While they claim, as the right of all Englishmen, to have the management of their own affairs under Local Administration and Local Responsibility, they have also considered the practical way of best, and most efficiently, carrying these Principles out. They have adopted, unanimously, certain Practical "Heads," as those under which alone a satisfactory system of Administration of the Sewerage and Drainage of the Metropolitan Districts can be framed.

The object of these "Heads," a copy of which is subjoined*,

* See page 11.

is very simple, but all-important. It is, *first*, to erect districts of such extent that they shall embrace considerable tracts, and yet not so extensive that their parts can have little of common interest between them ;—the aim being to ensure an administration, on a sound representative system, which shall, in each district, be satisfactory to all parts of it, and bear not unequally on all. It is, *secondly*, to secure certain Fundamental Principles in the administration of the affairs of each District ; on which Principles must ever depend the existence of a true and real Responsibility in the administration of affairs, and the satisfactory dealing with details. It is, *thirdly*, to effect the combined action of different Districts, in all cases where any work requires such combined action in order to the sound accomplishment of what the public welfare needs.

The *first* object is to be attained by a representative Board specially chosen for the purpose, and which must have a definite time, not exceeding six months, to discharge its functions. The *second* object is to be only attained by alike securing in the Representatives a true discharge of their duties, and for the Represented a due care of their interests. This double object is only to be accomplished by making every Representative to have special knowledge of and communication with a special part of each District ; and by making it an essential part of the system that constant and regular opportunities shall be given for all to understand well what is doing, and is proposed to be done, in matters so nearly concerning them ; that, so understanding these things, they may see and know whether they are well administered, and be able truly to choose competent representatives to administer them. The *third* object is to be attained by the formation of a General Council, made up of chosen elements from each of the District Councils.

Into further details it will hardly be desirable to enter here. It will not be difficult to embody these Heads and Principles into a simple and practical Bill, which shall attain all the objects of sound administration, together with responsible and efficient activity.

The object of the desired interview is thus before you ;

both in an outline view of the grounds of objection to the existing Commission of Sewers, and its Constitution under the Act of 1848; and also in an outline view of the Principles which the Deputations claim as the only just and constitutional foundations on which a soundly practical system for the Administration of the Sewerage and Drainage of the Metropolitan Districts can be reared.

I have the honour to be,

Sir,

(on behalf of the Committee of Deputations,)

Your obedient Servant,

J. A. NICHOLAY,

Chairman of the Body of Deputations.

Marylebone Court House,
Jan. 27, 1851.

To the Right Honourable

Sir George Grey, Bart., M.P.,

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SEWERAGE AND DRAINAGE

OF THE

METROPOLITAN DISTRICTS.

HEADS OF BILL

FOR CARRYING OUT ADMINISTRATIVE ARRANGEMENTS.

1. Making Districts.

A representative body,—elected by the householders of parishes within a given range,—to have the special duty of making Districts.

2. Essentials of Districts.

THE FOLLOWING TO BE THE FUNDAMENTAL PRINCIPLES IN THE CONSTITUTION OF DISTRICTS.

No district to contain less than *one hundred thousand*, nor more than *one hundred and fifty thousand*, inhabitants.

Each district to be divided into wards; each containing not less than *five hundred*, and not more than *one thousand*, male adults. Those who have occupied within the ward for a year and a day to be the electors for the ward. Each ward to have *two* or more representatives, annually chosen (but re-eligible), to a DISTRICT COUNCIL for carrying out all local purposes.

To be an express duty of *one* or more of the representatives of each ward to meet, in open meeting, the inhabitants of their ward once every month at the least, to lay before them the proceedings of the District Council, and to receive any complaints or suggestions.

3. Combined Action of Districts.

A GENERAL COUNCIL, for all purposes where combination is needed, to be formed of *two* persons elected out of its own body by each District Council.

[N.B. The words in italics show the proper PROPORTIONATE divisions and numbers; but are not laid down as, necessarily, definitive.]



